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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

#3

CIVIL MINUTES - GENERAL

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| Case No. | CV 12-7978 PSG (CWx) | Date | December 13, 2012 |
| Title | Istvan Kele v. United States of America | | |

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| Present: | The Honorable Philip S. Gutierrez, United States District Judge |
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| Wendy K. Hernandez | Not Present | n/a |
| Deputy Clerk | Court Reporter | Tape No. |

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

Not Present

Not Present

Proceedings: (In Chambers) Order DENYING Plaintiff's Motion for Appointment of Counsel

Before the Court is Plaintiff's motion for appointment of counsel. Dkt. #3. The Court finds the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78(b); L.R. 7-15. Having considered the papers submitted in support of the motion, the Court denies the motion.

A district court will secure counsel for an indigent civil litigant only in "exceptional circumstances." *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). "A finding of exceptional circumstances requires an evaluation of both 'the likelihood of success on the merits [and] the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.' Neither of these factors is dispositive and both must be viewed together before reaching a decision." *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (citation omitted).

In the present case, the Court does not find exceptional circumstances warrant the securing of counsel. The Court believes that Plaintiff has the ability to articulate his claims adequately on his own. Neither the facts nor the legal issues involved are unusually complex. Plaintiff cites his location in Austria as impeding his ability to conduct discovery as a reason to grant his motion. However, Plaintiff has recognized that he "is familiar enough with discovery procedure and can submit his written 'interrogatories' and 'production of documents' to the government." *Mot.* ¶ 8. His only concern is that he will not be able to depose government agents from outside the United States. *Id.* This is not sufficient to warrant the appointment of

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counsel. Therefore, Plaintiff's motion for appointment of counsel is DENIED.

IT IS SO ORDERED.